

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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ERIC EDWARD JUELL,
Plaintiff,

NO. CIV S-05-0378 FCD/GGH

v.

MEMORANDUM AND ORDER

FOREST PHARMACEUTICALS, INC.
and DAVID WILLIAMS,
Defendants.

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On June 9, 2006, plaintiff Eric Juell and defendant Forest Pharmaceuticals, Inc. And David Williams (collectively "defendants") submitted a Stipulated Application for an Order Shortening Time for hearing on Defendants' Motion to Modify the Pretrial Scheduling Order for Limited Discovery and on Defendants' Motion to Compel Examination of plaintiff pursuant to Federal Rules of Civil Procedure, Rule 35.

The court has reviewed the Stipulated Application for an Order Shortening Time, the Declaration of Lizbeth V. West filed in support thereof, the Motion to Modify the Pretrial Scheduling

1 Order for limited discovery, and all exhibits attached thereto.
2 Further, the court has reviewed the record in this matter,
3 specifically the court's previous grant of plaintiff's motion to
4 modify the Pretrial Scheduling Order to allow for designation of
5 four healthcare experts and an economic expert. Defendants'
6 current motion to modify the Pretrial Scheduling Order to compel
7 medical examination of plaintiff is a result of plaintiff's
8 designation of medical experts and defendants' subsequent
9 designation of a rebuttal expert. Based upon consideration of
10 the underlying materials and the procedural facts of this case,
11 the court finds that defendants have demonstrated good cause for
12 modification of the Pretrial Scheduling Order for the purposes of
13 limited discovery.¹ Therefore, defendants Motion to Modify the
14 Pretrial Scheduling Order is GRANTED. Accordingly, the Pretrial
15 Scheduling Order is modified to allow defendants to notice and
16 file a motion to compel examination of plaintiff pursuant to Rule
17 35 before the Magistrate Judge and to conduct any discovery
18 ordered as a result thereof.

19 IT IS SO ORDERED.

20 DATED: June 19, 2006

21
22 _____/s/Frank C. Damrell, Jr.

23 _____FRANK C. DAMRELL, Jr.
24 _____UNITED STATES DISTRICT JUDGE

25 _____
26 ¹ While the court acknowledges that plaintiff has not
27 filed a response to defendants' Motion to Modify the Pretrial
28 Scheduling Order, due to scheduling conflicts, the court will not
be available to hold a hearing or issue a decision on this matter
until late July 2006. Further, the underlying record in this
case establishes good cause for modification.